

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,  
*Plaintiff,*

v.

INHANCE TECHNOLOGIES LLC,

*Defendant.*

CIVIL ACTION NO. 22-5055

**ORDER**

AND NOW, this \_\_\_\_th day of January, 2023, upon consideration of the Plaintiff's unopposed motion to unseal the unredacted complaint (Doc. No. \_), and for good cause shown, it is hereby **ORDERED** that the motion (Doc. No. \_\_) is **GRANTED**, and the unredacted version of Plaintiff's complaint (Doc. No. 3) shall be unsealed.

The Clerk of Court is hereby **ORDERED** to unseal the unredacted version of Plaintiff's complaint (Doc. No. 3) forthwith.

BY THE COURT:

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EDWARD G. SMITH, J.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**UNITED STATES OF AMERICA,**  
*Plaintiff,*

**v.**

**INHANCE TECHNOLOGIES LLC,**

*Defendant.*

CIVIL ACTION NO. 22-5055

**PLAINTIFF’S UNOPPOSED MOTION AND INCORPORATED MEMORANDUM TO  
UNSEAL THE UNREDACTED COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 5.2(d), the United States of America, by the authority of the Attorney General and through the undersigned attorneys, and at the request of the Administrator of the United States Environmental Protection Agency (the “EPA”), hereby moves the Court to unseal the unredacted Complaint against Inhance Technologies LLC (the “Defendant” or Inhance”). Inhance does not oppose this motion.

**BACKGROUND**

On December 19, 2022, the United States initiated this Toxic Substances Control Act (“TSCA”) case by filing a redacted version of the complaint into the publicly-accessible record. R. Doc. 1. The United States also moved to file under seal the unredacted complaint. R. Doc. 2. In its motion, the United States explained that TSCA requires the EPA to protect from disclosure information that a regulated entity has submitted and has alleged is confidential business information (“CBI”), until the EPA becomes aware that the information does not qualify for protection and denies or denies in part the claim of confidentiality. 15 U.S.C. § 2613(e); *see also* 40 C.F.R. §§ 2.203, 2.204(d) and 2.306.

In regulatory filings with the EPA, Inhance had arguably asserted CBI claims over the information that was redacted in the publicly-available complaint. Although the United States disagreed with much of Inhance's CBI-assertions, the United States moved to seal the unredacted complaint in order to ensure compliance with TSCA. On December 20, 2022, the Court granted the United States' motion to seal the unredacted complaint. R. Doc. 4.

### **ARGUMENT**

The First Amendment and the common law safeguard the right of access to judicial records. *See In re Avandia Mktg., Sales Practices and Prods. Liab. Litig.*, 924 F.3d 662, 672-73 (3d Cir. 2019). Under both of these sources, as the Third Circuit explained in *In re Avandia*, there is a presumption of public access to the records of judicial proceedings. *See id.* That presumption may be overcome—and records may be sealed—for a compelling reason, such as a valid interest in protecting trade secrets. *See id.* However, absent any compelling interest in sealing, the presumption of public access prevails.

Here, by letter dated January 13, 2023, Inhance has informed the United States that it has reviewed the redactions to the complaint and does not believe that the redacted material constitutes CBI within the meaning of 5 U.S.C. § 552(b)(4). *See* Exhibit 1. Thus, good cause no longer exists to seal the unredacted complaint. Accordingly, the unredacted complaint should be unsealed to permit public access to that filing. Inhance does not object to unsealing the pleading. *See id.*

Wherefore, the United States requests that the Court grant this motion to unseal the unredacted Complaint.

Respectfully submitted,

**FOR THE UNITED STATES OF AMERICA**

**TODD KIM**

Assistant Attorney General  
Environment and Natural Resources Division  
United States Department of Justice

Dated: January 13, 2023

/s/ Richard Gladstein

**RICHARD GLADSTEIN**

Senior Counsel

**JONAH SELIGMAN**

Trial Attorney

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**JACQUELINE C. ROMERO**

United States Attorney

Eastern District of Pennsylvania

Dated: January 13, 2023

/s/ Gregory B. David

**GREGORY B. DAVID**

Chief, Civil Division

/s/ Erin Lindgren

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**CERTIFICATE OF SERVICE**

The forgoing Plaintiff's Unopposed Motion and Incorporated Memorandum to Unseal the Unredacted Complaint has been filed electronically using the ECF system and is available for viewing and downloading from the ECF system. Counsel for the Plaintiff also has served by email an electronic copy of this Motion and proposed Order on counsel for the Defendant.

DATE: January 13, 2023

/s/ Richard Gladstein  
RICHARD GLADSTEIN

**CERTIFICATE OF UNCONTESTED MOTION**

Pursuant to Local Rule 7.1(b), I certify that I have conferred with counsel for Inhance regarding this motion to unseal and counsel has told me that this motion is uncontested.

DATE: January 13, 2023

/s/ Richard Gladstein  
RICHARD GLADSTEIN



## **EXHIBIT 1**

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January 13, 2023

### **BY EMAIL CORRESPONDENCE**

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Jonah Seligman, Esq.  
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**Re: Sealed Complaint in *United States v. Inhance Technologies LLC*,  
Case No.: 2:22-cv-05055**

Dear Messrs. Gladstein and Seligman:

At the direction of my client, Inhance Technologies LLC ("Inhance"), I have undertaken a review of the sealed complaint filed by the United States of America ("United States") on December 19, 2022, in the above-captioned matter to determine whether the public disclosure of the information redacted in the United States' sealed complaint constitutes "trade secrets and commercial or financial information," 5 U.S.C. § 552(b)(4) (2018), that would harm the business interests of Inhance. We have determined that it would not. Based on the foregoing, Inhance has authorized me to inform the United States that it does not claim "confidential business information" over the specific redacted information and, as such, has no objection to the United States unsealing the unredacted complaint.

Inhance will work separately with the United States Environmental Protection Agency ("EPA") to address the scope of Inhance's claim of "confidential business information" with respect to information submitted to EPA related to the subject-matter of the above-captioned matter.



**United States v. Inhance  
Technologies LLC,  
Case No.: 2:22-cv-05055**

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January 13, 2023

If you have any questions regarding this matter, please contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Adam M. Kushner".

Adam M. Kushner  
Partner  
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(202) 637-5724  
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cc:

Jonah Seligman, United States Department of Justice  
N. Lindsay Simmons, United States Environmental Protection Agency  
Alexander Dergarabedian, United States Environmental Protection Agency